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## THE NEW MCP: ADEQUATELY REGULATED FACT SHEET 1

### OVERVIEW OF ADEQUATELY REGULATED REQUIREMENTS

#### SUBPART A 310 CMR 40.0110

The Massachusetts Department of Environmental Protection (DEP) has redesigned the Waste Site Cleanup Program, and has revised the rules for reporting, assessing, and cleaning up releases of oil and hazardous materials. The revised Massachusetts Contingency Plan (310 CMR 40.0000, "1993 MCP"), which contains these rules, became fully effective on October 1, 1993. This fact sheet provides an overview of the adequately regulated provisions of the MCP, and describes the types of sites that may be adequately regulated, and the provisions of the MCP that do and do not apply.

The 1993 MCP provides opportunities and incentives for those who are legally responsible to meet their obligations as efficiently and effectively as possible. The 1988 MCP fully applied to cleanups at Environmental Protection Agency (EPA) Superfund sites and facilities permitted by other DEP Bureaus or the EPA unless DEP affirmatively waived those requirements. DEP rarely waived the 1988 MCP requirements due to a lack of staff and clear guidance regarding such waivers. As a result, some permitted facilities became subject to two sets of cleanup requirements and oversight conducted, in some cases, by two regulatory authorities. One of the efficiencies provided by the 1993 MCP is the adequately regulated provisions (310 CMR 40.0110). The adequately regulated provisions are designed to reduce regulatory overlap and duplication. These provisions limit the applicability of the MCP in cases where response actions are adequately overseen by other authorities. DEP believes the adequately regulated provisions will result in less duplication of effort by both the government and the private sector.

This fact sheet provides an overview of the adequately regulated provisions of the MCP. Fact Sheets 2, 3, 4 and 5 address the specific requirements for certain types of sites or response actions that may be considered adequately regulated, as discussed below.

**PURPOSE OF THE ADEQUATELY REGULATED PROVISIONS OF THE MCP:** DEP included the adequately regulated provisions in the MCP in order to avoid duplication of regulatory procedures and oversight, thus streamlining site cleanup at sites subject to multiple jurisdictions. Regardless of the regulatory procedures followed, DEP expects all sites with releases or threats of release of oil

and hazardous materials to be cleaned up to an equivalent extent with appropriate opportunities for public involvement.

**SITES AND RESPONSE ACTIONS THAT MAY BE ADEQUATELY REGULATED:** The MCP identifies certain types of sites and/or response actions that may be considered adequately regulated, and indicates which provisions of the MCP are applicable for each. The sites and/or response actions that may be adequately regulated are:

- ▶ Federal Superfund Sites or other removal actions taken in accordance with CERCLA (Comprehensive Environmental Response, Compensation, and Liability Act of 1980 - the Federal Superfund Program) (See Adequately Regulated Fact Sheet 2);
- ▶ Federal Hazardous and Solid Waste Act Amendments of 1984 (HSWA) Corrective Actions under the Resource Conservation and Recovery Act (RCRA) (See Adequately Regulated Fact Sheet 3);
- ▶ Response actions at Treatment, Storage, and Disposal Facilities (TSDs) and Land Disposal Facilities (LDFs)<sup>1</sup> (See Adequately Regulated Fact Sheet 4); and
- ▶ Response actions at Solid Waste Management Facilities (See Adequately Regulated Fact Sheet 5).

**WHAT DOES IT MEAN TO BE ADEQUATELY REGULATED?** Response actions are adequately regulated if they are conducted according to the procedures of one of the regulatory authorities listed above. For instance, the cleanup of a hazardous waste treatment, storage or disposal facility (TSDF) would be considered adequately regulated provided the response actions are conducted in compliance with relevant licenses, permits, approvals or orders issued by DEP's Bureau of Waste Prevention (BWP), and certain provisions of the MCP.

The specific MCP provisions that adequately regulated sites must follow depend on the type of site or response action. The specific requirements for each type of site or response action are described in Adequately Regulated Fact Sheets 2 through 5. Table 1 summarizes some of the important adequately regulated provisions for each type of site. Table 2 summarizes some of the important

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<sup>1</sup> hazardous waste Treatment, Storage, and Disposal Facilities (TSDs) and Land Disposal Facilities (LDFs) that are subject to the requirements of 310 CMR 30.800 Licensing Requirements and Procedures or 310 CMR 30.099(6) Transition Provisions (Interim Status).

Adequately Regulated

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MCP provisions that must be followed for federal Corrective Actions, and response actions at 21C facilities and solid waste management facilities.

**FOR MORE INFORMATION:** Call the DEP InfoLine (from area code 617 and from outside Massachusetts, call 617/338-2255. From area codes 413 and 508, call 1-800/462-0444.

**WITH QUESTIONS AS TO THE ADEQUATELY REGULATED STATUS OF YOUR FACILITY OR RESPONSE ACTION:** Call the following contacts:

CERCLA sites - Jay Naparstek(BWSC) 617-292-5697

HSWA Corrective Action Sites &  
21C Facilities - John Carrigan(BWP) 617-292-5584

Solid Waste Management Facilities - James Doucette(BWP) 617-292-5868

General Questions - Stephen Winslow(BWSC) 574-6838

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<b>TABLE 1</b> <b>SUMMARY OF ADEQUATELY REGULATED PROVISIONS</b>					
	<b>CERCLA</b>	<b>PERMITTED HSWA CORRECTIVE ACTIONS</b>	<b>HSWA CORRECTIVE ACTIONS PENDING PERMIT APPEAL</b>	<b>SOLID WASTE FACILITIES</b>	<b>21C FACILITIES</b>
Sites that qualify	Federal Superfund sites or CERCLA removal actions	Federal HSWA Corrective actions under RCRA	Federal HSWA Corrective actions under RCRA	Response actions in accordance with solid waste permit or approval	Response actions at 21C TSDs and LDFs
Oversight authority	EPA	EPA	DEP for IRAs; DEP or LSP Subject to Audit for RAMs, URAMs, Phases III & IV	DEP Bureau of Waste Prevention*	DEP Bureau of Waste Prevention*
MCP Notification Required?	Yes, 2 and 72 hour releases	Yes, 2 and 72 hour releases	Yes, 2 and 72 hour releases and substantial release migration	Yes, 2 and 72 hour releases	Yes, 2 and 72 hour releases
LSP Required?	No, except for management of remediation waste	No, except for management of remediation waste	Yes	No, except for management of remediation waste	No, except for management of remediation waste
IRA Requirements	No specific requirements	MCP requirements for notice, IRA plans and IRACs apply. IRAs not required for Conditions of Substantial Release Migration. DEP approval not required if EPA is approving IRA	MCP requirements for notice, IRA plans, IRACs and DEP approval apply.	MCP requirements for notice, plans and approval, etc. apply*. IRAs not required for Conditions of Substantial Release Migration.	MCP requirements for notice, plans and approval, etc. apply*. IRAs not required for Conditions of Substantial Release Migration.
MCP Ranking, Permit and MCP Phase Report Requirements	None	Submit HSWA reports to DEP; No requirements for MCP ranking, permit or reports	Submit HSWA reports to DEP; MCP ranking, permit and reports required to implement remedy during pendency of appeal	Submit solid waste reports to DEP; no MCP ranking, permit or reports required	Submit response action reports according to 21C regs or permit to DEP; No MCP ranking, permit or reports required

\* BWSC and BWP will coordinate oversight of IRAs

**TABLE 1**  
**SUMMARY OF ADEQUATELY REGULATED PROVISIONS**

Cleanup requirements	Incorporated into ARARS	MCP risk characterization and risk management requirements apply; for landfills, requirements apply only outside landfills; no Response Action Outcome (RAO) statement required	MCP risk characterization and risk management requirements apply; for landfills, requirements apply only outside landfills; no RAO statement required	MCP risk characterization and risk management requirements apply; for landfills, requirements apply only outside landfills; no RAO statement required	MCP risk characterization and risk management requirements apply; for landfills, requirements apply only outside landfills; no RAO statement required
Public Involvement Requirements	Follow CERCLA public involvement procedures	MCP Notice for Imminent Hazard, RAM, Phase Completion, Field Work involving respirators or Level A, B or C Protection; Legal notices analogous to MCP; Public Involvement Plan sites will have additional site-specific requirements	MCP Notice for Imminent Hazard, RAM, Phase Completion, Field Work involving respirators or Level A, B or C Protection; Legal notices analogous to MCP; Public Involvement Plan sites will have additional site-specific requirements	MCP Notice for Imminent Hazard, RAM, Phase Completion, Field Work involving respirators or Level A, B or C Protection; Legal notices analogous to MCP; Public Involvement Plan sites will have additional site-specific requirements	MCP Notice for Imminent Hazard, RAM, Phase Completion, Field Work involving respirators or Level A, B or C Protection; Legal notices analogous to MCP; Public Involvement Plan sites will have additional site-specific requirements
Subject to Audit	No	Yes	Yes	No	No
Relevant Fact Sheet	#2	#3	#3	#4	#5

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<p align="center"><b>TABLE 2</b></p> <p align="center"><b>IMPORTANT APPLICABLE MCP PROVISIONS FOR FEDERAL CORRECTIVE ACTIONS UNDER HSWA, AND RESPONSE ACTIONS AT 21C FACILITIES AND SOLID WASTE MANAGEMENT FACILITIES</b></p>	
·	Certification of submittals by the person conducting the response action (310 CMR 40.0009)
·	Environmental sample collection and analysis (310 CMR 40.0017)
·	Health and safety procedures (310 CMR 40.0018)
·	Management procedures for remediation waste, including the Bill of Lading process (310 CMR 40.0030)
·	Air emission control measures (310 CMR 40.0040)
·	Application of the Best Response Management Approach Standard (310 CMR 40.0191)
·	Notification of the Department of releases and threats of releases which require notification within two hours or 72 hours, including imminent hazards; in addition to any notifications required under other authorities (310 CMR 40.0300)
·	Immediate Response actions at sites where a release or threat of release requiring notification within two or 72 hours has occurred, including provisions for notifications, plans and approvals (310 CMR 40.0404-40.0429)
·	Risk characterization procedures and achievement of response action outcome (310 CMR 40.0900 and 40.1000), except the submittal of response actions outcome statements is not required; For licensed hazardous waste landfills, closed hazardous waste landfills, permitted solid waste landfills, and closed solid waste landfills, these requirements apply only outside the boundary of the landfill
·	Public involvement activities and technical assistance grants; including notifications of the Chief Municipal Officer and Board of Health about imminent hazards, response actions for imminent hazards, completion of any phase of a response action, field work involving remediation, and field work involving Level A, B, or C personal protection or involving residential properties. Additional public involvement activities are required for Public Involvement Plan sites (310 CMR 49.1400)

## **THE NEW MCP: ADEQUATELY REGULATED FACT SHEET 2**

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### **REQUIREMENTS FOR: ADEQUATELY REGULATED FEDERAL SUPERFUND SITES**

The adequately regulated provisions of the 1993 MCP are designed to reduce regulatory overlap and duplication, as discussed in the Adequately Regulated Fact Sheet 1. These provisions limit the applicability of the MCP in cases where response actions are adequately overseen by other authorities. DEP believes the adequately regulated provisions will result in less duplication of effort by both the government and the private sector.

This fact sheet provides an overview of the adequately regulated provisions specific to response actions conducted under the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

**WHEN WILL A RESPONSE ACTION CONDUCTED AT A SUPERFUND SITE OR OTHERWISE IN ACCORDANCE WITH CERCLA BE CONSIDERED ADEQUATELY REGULATED?** The DEP deems a CERCLA site to be adequately regulated when: (1) DEP concurs with a Record of Decision (ROD) or other Environmental Protection Agency (EPA) remedial action decision, (2) EPA expands a remedial action at DEP's request, (3) DEP or the Potentially Responsible Parties (PRPs) agree to implement work necessary to meet an Applicable or Relevant and Appropriate Requirement (ARAR) EPA has waived, or (4) DEP reviews a ROD or EPA remedial action decision and has no comment.

**WHICH AGENCY WILL OVERSEE THE CERCLA SITE/RESPONSE ACTION?** Under CERCLA EPA is the lead agency unless EPA allows another agency or DEP to be the lead.

**WHAT PROVISIONS OF THE MCP APPLY?** DEP will seek to incorporate MCP requirements to the extent practicable into state Superfund contracts under CERCLA. In addition, site specific requirements will be established on a case-by-case basis through incorporation of appropriate state requirements into site-specific cooperative agreements between DEP and EPA, during the establishment of ARARs and the selection of the remedy under CERCLA.

**WHAT ABOUT OIL RELEASES AT CERCLA SITES?** The MCP applies to any release or threat of release of an oil or hazardous material at a CERCLA site that is not regulated under CERCLA. For example, a release of waste oil at a CERCLA site may not be regulated under that authority, and so response actions specific to that release

would be subject to the MCP. DEP will first seek to have the MCP cleanup requirement included as an ARAR or otherwise integrated into the CERCLA remedial action.

**WHAT HAPPENS IF A CERCLA SITE IS NOT ADEQUATELY REGULATED?** If there is a response action that the Department requires, but EPA has not included it in its plans for the site, the Department will first request changes to the CERCLA remedial action or agree to take actions to meet an ARAR EPA has waived. If EPA refuses to make those changes or to allow DEP to take those actions, the CERCLA site will not be considered adequately regulated, and all provisions of the MCP will apply, to the extent they are not preempted by CERCLA.

**MUST I NOTIFY DEP WHEN A NEW RELEASE OF OIL OR HAZARDOUS MATERIALS OCCURS AT A CERCLA SITE?** Yes, a new release of oil or hazardous material must be reported to the Department in accordance with 310 CMR 40.0300 since the CERCLA adequately regulated provisions only apply to remedial action decisions. After notification, the Department may defer to EPA oversight of any immediate response actions. The Department's notification regulations exempt many pre-existing releases discovered during assessment when the Department has been previously notified.

**FOR MORE INFORMATION:** See Adequately Regulated Fact Sheet 1, Overview of Adequately Regulated Requirements or Call the DEP InfoLine (from area code 617 and from outside Massachusetts, call 617/338-2255. From area codes 413 and 508, call 1-800/462-0444.

**WITH QUESTIONS AS TO THE ADEQUATELY REGULATED STATUS A CERCLA SITE:** Call the following contacts:

CERCLA sites	- Jay Naparstek (BWSC) 617-292-5697
General Questions	- Stephen Winslow (BWSC) 617-574-6838

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## **THE NEW MCP: ADEQUATELY REGULATED FACT SHEET 3**

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### **REQUIREMENTS FOR: ADEQUATELY REGULATED FEDERAL HSWA CORRECTIVE ACTIONS**

The adequately regulated provisions of the 1993 MCP are designed to reduce regulatory overlap and duplication, as discussed in the Adequately Regulated Fact Sheet 1. These provisions limit the applicability of the MCP in cases where response actions are adequately overseen by other authorities. DEP believes the adequately regulated provisions will result in less duplication of effort by both the government and the private sector.

This fact sheet provides an overview of the adequately regulated provisions specific to corrective actions conducted under the Hazardous and Solid Waste Act Amendments of 1984 (HSWA).

**WHEN WILL HSWA CORRECTIVE ACTIONS BE CONSIDERED ADEQUATELY REGULATED?** Response actions at disposal sites subject to an effective HSWA (Hazardous and Solid Waste Act Amendments of 1984) license, permit, approval or order for Corrective Action are automatically considered to be adequately regulated provided that certain provisions of the MCP are followed (see below). Response actions at such a facility that are not related to the Corrective Action will not be considered adequately regulated and all provisions of the MCP will apply.

**WHAT HAPPENS IF A HSWA CORRECTIVE ACTION PERMIT OR ORDER IS APPEALED?** Response actions that consist only of assessment work are adequately regulated while an appeal of a HSWA permit or order is pending, although additional MCP requirements will apply, as described below. However, Corrective Actions that include remedial measures are not considered adequately regulated during such an appeal and all provisions of the MCP will apply.

**WHICH AGENCY WILL OVERSEE THE CORRECTIVE ACTION/RESPONSE ACTION?** The EPA generally serves as the lead agency for HSWA Corrective Actions. At this time, the DEP has not been delegated authority to oversee HSWA Corrective Actions. HSWA Corrective Actions can, however, be audited by DEP to ensure that applicable provisions of the MCP are being complied with.

**WHICH AGENCY WILL OVERSEE THE CORRECTIVE ACTION IF EPA AND DEP HAVE ENTERED INTO A MEMORANDUM OF UNDERSTANDING (MOU) REGARDING COORDINATION OF OVERSIGHT?** If EPA and DEP have entered into an MOU regarding coordination of oversight of a HSWA Corrective Action, the MOU will establish the extent of the Department's involvement in reviewing the adequacy of the Corrective Action.

**WHAT PROVISIONS OF THE MCP APPLY?** A number of provisions of the MCP must be followed in order for a HSWA Corrective Action to be considered adequately regulated. Some of the most important applicable provisions are shown in Table 1. A Licensed Site Professional (LSP) is not required for an adequately regulated HSWA Corrective Action unless it is being conducted while an appeal from an applicable license, permit, approval or order is pending. LSPs are required, however, in order to provide opinions relative to the characterization and disposal of Remediation Waste.

**WHAT HAPPENS IF RESPONSE ACTIONS ARE NOT ADEQUATELY REGULATED UNDER HSWA?** If response actions are not adequately regulated under HSWA, all of the provisions of the MCP will apply, including the requirements regarding LSPs, approvals, tier classification, Tier I permits, submittals, etc. There may be instances when sites potentially subject to HSWA Corrective Action must comply with the MCP until such time as they come under an applicable license, permit, approval or order. For example, facilities that applied for interim status must follow the MCP until either EPA issues a HSWA permit or order, or DEP incorporates the response actions into a permit, approval or order under M.G.L. c. 21C and 310 CMR 30.000 (see Adequately Regulated Fact Sheet 4).

**FOR MORE INFORMATION:** See Adequately Regulated Fact Sheet 1, Overview of Adequately Regulated Requirements, or call the DEP InfoLine (from area code 617 and from outside Massachusetts, call 617/338-2255. From area codes 413 and 508, call 1-800/462-0444.

**WITH QUESTIONS AS TO THE ADEQUATELY REGULATED STATUS OF YOUR FACILITY OR RESPONSE ACTION:** Call the following contacts:

HSWA Corrective Action Sites - John Carrigan(BWP) 617-292-5584

General Questions - Stephen Winslow(BWSC) 617-574-6838

## **THE NEW MCP: ADEQUATELY REGULATED FACT SHEET 4**

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### **REQUIREMENTS FOR: ADEQUATELY REGULATED 21C FACILITIES**

The adequately regulated provisions of the 1993 MCP are designed to reduce regulatory overlap and duplication, as discussed in the Adequately Regulated Fact Sheet 1. These provisions limit the applicability of the MCP in cases where response actions are adequately overseen by other authorities. DEP believes the adequately regulated provisions will result in less duplication of effort by both the government and the private sector.

This fact sheet provides an overview of the adequately regulated provisions specific to response actions conducted at 21C facilities.

**WHEN WILL RESPONSE ACTIONS AT 21C FACILITIES BE CONSIDERED ADEQUATELY REGULATED?** Response actions at 21C Facilities are considered adequately regulated if they are being conducted in compliance with a permit, approval or order issued pursuant to M.G.L. c. 21C and 310 CMR 30.000. Response actions at such a facility not governed by a permit, order or approval will not be considered adequately regulated and all provisions of the MCP will apply.

**WHO WILL OVERSEE RESPONSE ACTIONS AT 21C FACILITIES?** Adequately regulated response actions at 21C facilities will generally be overseen by DEP Bureau of Waste Prevention staff.

**WHAT PROVISIONS OF THE MCP APPLY?** A number of provisions of the MCP must be followed in order for a response action at a 21C facility to be considered adequately regulated. Some of the most important applicable provisions are shown in Table 1. A Licensed Site Professional (LSP) is not required for adequately regulated response actions at 21C facilities. LSPs are required, however, in order to provide opinions relative to the characterization and disposal of Remediation Waste.

**MUST I NOTIFY THE DEPARTMENT OF A RELEASE OR THREAT OF RELEASE OF OIL OR HAZARDOUS MATERIALS ACCORDING TO THE MCP IF I HAVE ALREADY NOTIFIED THE DEPARTMENT ACCORDING TO 310 CMR 30.000?** In this situation, The Department must be notified under both regulatory authorities of releases and threats of releases which require notification under the MCP within two hours or 72 hours.

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**WHAT IS THE STATUS OF RESPONSE ACTIONS AT A 21C FACILITY THAT HAS A WAIVER UNDER THE OLD MCP?** If a 21C facility has an approved waiver under the old MCP, the waiver remains in effect. However, the Department and the facility may agree to negate the waiver and incorporate the adequately regulated provisions of the MCP into the permit, order or approval for response actions at the facility. In instances where the facility is currently performing the actions under both a waiver and a permit, order or approval, the facility shall be considered adequately regulated provided that all future actions comply with applicable provisions of the MCP (see above).

**WHAT HAPPENS IF A RESPONSE ACTION AT A 21C FACILITY IS NOT ADEQUATELY REGULATED?** If a site or response action is not adequately regulated under a 21C permit, approval or order, all of the provisions of the MCP will apply, including the requirements regarding LSPs, approvals, tier classification, Tier I permits, submittals, etc.

**FOR MORE INFORMATION:** See Adequately Regulated Fact Sheet 1, Overview of Adequately Regulated Requirements or call the DEP InfoLine (from area code 617 and from outside Massachusetts, call 617/338-2255. From area codes 413 and 508, call 1-800/462-0444.

**WITH QUESTIONS AS TO THE ADEQUATELY REGULATED STATUS OF YOUR 21C FACILITY OR RESPONSE ACTION:** Call the following contacts:

21C Facilities	- John Carrigan(BWP) 617-292-5584
General Questions	- Stephen Winslow(BWSC) 617-574-6838

## **THE NEW MCP: ADEQUATELY REGULATED FACT SHEET 5**

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### **REQUIREMENTS FOR: ADEQUATELY REGULATED SOLID WASTE MANAGEMENT FACILITIES**

The adequately regulated provisions of the 1993 MCP are designed to reduce regulatory overlap and duplication, as discussed in the Adequately Regulated Fact Sheet 1. These provisions limit the applicability of the MCP in cases where response actions are adequately overseen by other authorities. DEP believes the adequately regulated provisions will result in less duplication of effort by both the government and the private sector.

This fact sheet provides an overview of the adequately regulated provisions specific to response actions conducted at Massachusetts Solid Waste Management Facilities.

**WHEN WILL RESPONSE ACTIONS AT SOLID WASTE MANAGEMENT FACILITIES BE CONSIDERED ADEQUATELY REGULATED?** Response actions at Solid Waste Management Facilities are considered adequately regulated if they are being conducted in compliance with an applicable permit, approval or order issued pursuant to M.G.L. c. 21H, M.G.L. c. 111, Sec. 150A and/or 310 CMR 19.000. Language referencing applicable MCP provisions may be incorporated into the applicable permit, approval or order.

**WHO WILL OVERSEE RESPONSE ACTIONS AT SOLID WASTE MANAGEMENT FACILITIES?** Adequately regulated response actions at solid waste management facilities will generally be overseen by the Division of Solid Waste Management (DSWM) staff in DEP's Bureau of Waste Prevention.

**IF CONTAMINATION HAS MOVED OFF-SITE, IS THE LANDFILL STILL CONSIDERED ADEQUATELY REGULATED?** Actions taken at a permitted landfill that will remediate the off-site contamination, or even actions taken off-site under solid waste review and approval would still be adequately regulated, provided that the MCP cleanup standards are met. In other words, DSWM could oversee an off-site pump and treat system to remediate contamination coming from a landfill, provided that system would remediate the ground water to MCP standards. Another good example would be landfill gas, which readily moves off-site.

**ARE RESPONSE ACTIONS AT PRE-1971 LANDFILLS CONSIDERED ADEQUATELY REGULATED?** Response actions at pre-1971 landfills are not considered adequately regulated under the MCP unless they are the subject of an order or approval from the Department. Specifically, in order for a pre-1971 landfill to be considered adequately regulated DEP must either order that a final closure or post-closure plan be filed, or approve a plan for post-closure use.

**WHAT PROVISIONS OF THE MCP APPLY?** A number of provisions of the MCP must be followed in order for a response action at a Solid Waste Management Facility to be considered adequately regulated. Some of the most important applicable provisions are shown in Table 1. A Licensed Site Professional (LSP) is not required for adequately regulated response actions at Solid Waste Management Facilities. LSPs are required, however, in order to provide opinions relative to the characterization and disposal of Remediation Waste.

**WHAT IS THE STATUS OF RESPONSE ACTIONS AT A SOLID WASTE MANAGEMENT FACILITY THAT HAS A WAIVER UNDER THE OLD MCP?** If a Solid Waste Management Facility has an approved waiver under the old MCP, the waiver remains in effect. However, the Department and the facility may agree to negate the waiver and incorporate the adequately regulated provisions of the MCP into the permit, order or approval for response actions at the facility.

**WHAT HAPPENS IF A RESPONSE ACTION AT A SOLID WASTE MANAGEMENT FACILITY IS NOT ADEQUATELY REGULATED?** If a site or response action is not adequately regulated as a Solid Waste Management Facility, all of the provisions of the MCP will apply, including the requirements regarding LSPs, approvals, tier classification, Tier I permits, submittals, etc. There may be instances when sites that could be considered Solid Waste Management Facilities, such as pre-1971 landfills, must comply with the MCP until such time as they come under an applicable permit, approval or order.

**FOR MORE INFORMATION:** See Adequately Regulated Fact Sheet 1, Overview of Adequately Regulated Requirements or call the DEP InfoLine (from area code 617 and from outside Massachusetts, call 617/338-2255. From area codes 413 and 508, call 1-800/462-0444.

**WITH QUESTIONS AS TO THE ADEQUATELY REGULATED STATUS OF YOUR SOLID WASTE MANAGEMENT FACILITY OR RESPONSE ACTION:** Call the following contacts:

Solid Waste Facilities - James Doucette(BWP) 617-292-5868

General Questions - Stephen Winslow(BWSC) 616-574-6838

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